IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7656 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE ANIL R. DAVE
HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KIRITBHAI SHAMJIBHAI SAVAJ - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR VM PANCHOLI for Petitioner(s) : 1,
MR UR BHATT, AGP for Respondent(s) : 1,2,3

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CORAM : HONOURABLE MR.JUSTICE ANIL R. DAVE
and
HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 18/04/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE ANIL R. DAVE)

1.Rule. Learned AGP Shri Uday R. Bhatt waives service of rule on behalf of respondents.

2.Looking to the facts of the case and in pursuance of the request made by the learned advocates, the petition is finally heard today.

3.Upon hearing the learned advocates and in view of the fact that the petitioner could have filed a revision application before the State of Gujarat against the impugned order, we are not inclined to entertain the petition so as to enable the petitioner to file the revision application before the State of Gujarat.

4.Learned advocate Shri V.M. Pancholi for the petitioner has submitted that the vehicle in question had been purchased by the petitioner on 29-06-2005. The said fact could not be disputed by the learned AGP as it is a matter of record. Inspite of the said fact, the petitioner has been asked to pay tax and penalty in respect of the vehicle prior to the date on which he had purchased the vehicle.

5.Considering the above facts and circumstances of the case, we are of the view that the petitioner should file revision application within one week from today

and if the revision application is filed within one week, it should be decided by the authority within three months from the date on which the memo of the revision application is submitted by the petitioner.

6. At present the petitioner is unable to use the vehicle and, therefore, he is not even in a position to earn income and learned advocate Shri Pancholi for the petitioner has rightly submitted that vehicle is being rusted as it is not been put to any use. Not only the State is losing revenue, even the petitioner is unable to earn and, therefore, we direct that the vehicle be released on a condition that the petitioner deposits a sum of Rs.1,40,000/- with respondent no.3. Within three days from the date on which Rs.1,40,000/- are deposited with respondent no.3, the vehicle shall be released.

7. As the petitioner has to file revision application against the impugned order, we do not say anything with regard to the merits of the petition.

8. In view of the above order, petition stands disposed of as allowed. Rule is made absolute to the above extent with no order as to costs.

Direct service is permitted.

(Anil R. Dave,J.)

(Akil Kureshi,J.)

(raghu)